



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

FEB 08 2005

4APT-APB

Dwight K. Wylie, P.E., Chief
Mississippi Department of
Environmental Quality
Office of Pollution Control
Air Division
P.O. Box 10385
Jackson, Mississippi 39289-0385

Dear Mr. Wylie:

This correspondence is being sent to provide you with an official final copy of the Environmental Protection Agency (EPA) Region 4 report, which was completed as a result of the EPA Title V and New Source Review (NSR) program evaluation conducted on September 13 - 14, 2004, and October 20 - 21, 2004 (see Enclosure). The purpose of this program review was to evaluate the status and the ability of the Mississippi Department of Environmental Quality (MDEQ) to carry out the duties and responsibilities required to effectively run the Title V and NSR programs, as well as find out how EPA can best assist the MDEQ in meeting these commitments.

I would like to thank you and your staff for your cooperation throughout the evaluation. Your staff responded to the questionnaires and provided all requested material in a timely and professional manner. In addition, I commend you on the performance of both of these programs. Both programs are operating at a very high level of proficiency. These programs are important tools to implement measures protecting air quality for the citizens of Mississippi. We appreciate your efforts to ensure that Mississippi has effective air programs

If you or your staff have any questions regarding the report, please do not hesitate to contact Randy Terry of the EPA Region 4 staff at (404) 562-9032.

Sincerely,

Beverly H. Banister
Director
Air, Pesticides and Toxics
Management Division

Enclosure



Mississippi Department of Environmental Quality Title V and New Source Review Program Review

The U.S. Environmental Protection Agency (EPA) Region 4 committed to conduct detailed title V and New Source Review (NSR) program reviews for all state and local programs that have at least ten title V major sources within their jurisdiction. These evaluations also include a review of the title V fees collected and billed annually. This commitment results from an agreement between the EPA Office of Air and Radiation and the EPA Office of Inspector General, which required EPA to conduct title V program evaluations of all state and local programs. EPA Region 4 decided, in addition to title V, to use this opportunity, when applicable, to evaluate the NSR programs at each of the state and local programs. The program reviews are to be completed by the end of Fiscal Year 2006. The Mississippi Department of Environmental Quality (MDEQ) program review was conducted the dates of September 13 - 14 and October 20 - 21, 2004, in Jackson, Mississippi. Prior to arrival at the Mississippi State office, EPA emailed a list of 10 title V sources to MDEQ that EPA planned to review as part of the overall program review. Upon EPA's arrival at MDEQ, EPA spent the first day reviewing the permit files. The following morning, an entrance interview was conducted between EPA and key staff of the MDEQ explaining the program areas Region 4 would be inquiring into during the review. The following parties attended the initial meeting: Randy Terry (EPA Region 4), Yolanda Adams (EPA Region 4), Katy Forney (EPA Region 4), Jerry Cain (MDEQ), Dan McLeod (MDEQ), Don Watts (MDEQ), Marc Wyatt (MDEQ), Maya Rao (MDEQ), and Tim Parrish (MDEQ).

Mississippi Title V Program Review

1. Program Review

MDEQ's organizational structure for air permitting resides at the central office in Jackson. All title V permits are processed in the Jackson office.

The headings in the title V portion of this report duplicate the headings in the title V program review questionnaire administered during the visit with the exception of section I (Program Highlights).

EPA appreciated MDEQ efforts to aid the evaluation process by providing an answered copy of the program review questionnaire prior to the meeting. For many questionnaire items, the answers provided by MDEQ are more detailed than indicated in the summary discussion below. The answered questionnaire from MDEQ will be on file at EPA Region 4 for reference.

A. Title V Permit Preparation and Content

The Mississippi Department of Environmental Quality (MDEQ) has issued 315 out of 317 initial title V permits. During the early stages of permits issuance, MDEQ did not track the percentage of initial title V applications that required additional information to adequately prepare a title V operating permit. However, since 2003, approximately 40% of the applications submitted have required additional information before the permit process could begin. These problems have ranged from a lack of clarity on the information submitted, to the failure to submit the information required by the application. MDEQ believes that the primary problem has been the applicant's lack of understanding of all the applicable standards and their potential to emit. Additionally, MDEQ experienced some difficulty issuing timely title V permits due to compliance/enforcement issues. MDEQ has utilized outreach and training efforts to educate the permitted community on how to improve the quality of the applications being submitted. MDEQ has observed that as the sources become more familiar with the requirements of the title V program, the applications have become better written.

In instances in which a significant amount of time passes between application submittal and drafting a permit, MDEQ does not typically require that the application be updated unless the title V source modifies the facility. If the facility has been modified, the application must be revised to reflect the current facility operations. To ensure that all application information on file is accurate, MDEQ communicates with the source for verification prior to beginning the permitting process. Also, as standard operating procedures (SOP), the permit manager performs a pre-permitting inspection to assure the information in the application is correct.

In order to ensure that a source is in compliance prior to permit issuance, MDEQ would first review and determine whether the source has indicated non-compliance in the title V application. MDEQ also reviewed the files for any potential non-compliance issues. If non-compliance issues are identified and cannot be resolved prior to issuance, the title V permit would only be issued

with a compliance schedule included in the title V permit to return the source to a compliance status.

To improve their permit writing and processing time, MDEQ has and is continuing to provide training to permit managers with the goal being that as the permit manager becomes more knowledgeable of the title V permitting program they will be able to expedite the permit process. Further, permit managers often have the opportunity to attend training provided by outside sources, including EPA. MDEQ has also developed a process for quality assuring their permits prior to issuance. The draft permit prepared by the permit manager is reviewed by the Environmental Permits Division (EPD) Branch manager, the equivalent Environmental Compliance and Enforcement Division (ECED) Branch manager, the source, and in some cases EPA Region 4 prior to proceeding to the public notice period.

MDEQ has made specific efforts to streamline their permits. To the extent possible, permit writers clearly specify the most stringent requirements in their entirety within the permit. If multiple standards apply to a unit for the same pollutant (particularly those that are in the same unit of the standard), only the most stringent is included. The regulatory citation would include the less stringent standards and identify them as "subsumed." This is a routine part of the permitting process and when such happens, it is documented in the permit narrative. In addition, MDEQ prefers paraphrasing the federal standard method when possible, including within the permit a reference to where the full requirement is located.

MDEQ prepares a statement of basis (SOB) and/or factual and legal basis for each title V permit processed. MDEQ has implemented efforts to improve the quality of this document through internal training including the presentation of handouts, which contained SOBs that have been deemed acceptable by EPA Region 4. This document contains all the justifications for the permit conditions. MDEQ works to ensure that each SOB explains, at a minimum, the rationale for monitoring as well as applicability decisions and any exemptions. In order to ensure consistency in developing the SOB, the MDEQ has developed a boilerplate document for the staff to follow when completing a permit narrative. MDEQ emphasizes the use of spreadsheets to reflect the rationale for the monitoring, especially on complex sources. Additionally, MDEQ has instilled upon the permitting managers to describe, within the SOB, any special applicability determinations made or determinations made that a source or a specific emission unit is exempt from a particular standard which could reasonably be applicable to the unit. MDEQ has also trained the permit writers to include an explanation, within the SOB, anytime an applicable limit is not included within the SOB.

In discussing the overall strengths and weakness of the format of title V permits, MDEQ believes that the technical completeness, readability and enforceability are the strengths of the program. MDEQ also stated that the overall complexity of the permits required for some sources was a source of weakness within the title V program.

B. General Permits

MDEQ has not issued any general permits for title V sources. However, MDEQ would propose to use general permits for area Maximum Achievable Control Technology (MACT) sources should EPA ever make the decision not to permanently extend the deferral for area sources.

C. Monitoring

In order to ensure that its operating permits contain adequate monitoring, MDEQ has developed monitoring via permit conditions that addresses the requirements of the title V program. The monitoring is developed based upon the margin of compliance or the potential for non-compliance with the applicable standard. In addition, MDEQ strongly encourages sources to propose effective monitoring based on their specific operations and possibly what other sources are doing within their industry category. In developing adequate monitoring, MDEQ not only solicits input from the source, but also works closely with EPA Region 4 staff.

MDEQ continually provides internal training with their permit writers on monitoring and just recently had a refresher course on "Title V/Periodic Monitoring and Compliance Assurance Monitoring" in cooperation with EPA Region 4. MDEQ has emphasized the use of spreadsheets within the past year, particularly on more complex sources. The spreadsheets are used to reflect the source's emission points, the applicable standards, the testing, monitoring, recordkeeping and reporting and a justification or an explanation of why (or why not) the monitoring was required. MDEQ has recommended that the permitting managers attach this spreadsheet to the SOB. In the instances in which MDEQ believes the underlying requirements for monitoring are not sufficient, they have added monitoring. Additional monitoring, MDEQ believes, has increased the source's awareness of potential non-compliance areas. In some cases, this has resulted in the installation of additional control devices, which increases the margin of compliance and results in a reduction of the source's overall emissions.

D. Public Participation and Affected State Review

MDEQ believes that the most effective avenue for public notice is to present the information in as many different forms as possible to ensure that the majority of the public is aware of the impending action. MDEQ's current policy is to proceed to the 30-day public notice period once the permit is in a final draft form. The public notice is generally published in the nearest newspaper to the source with a daily publication. However, MDEQ does recognize a newspaper published in Jackson, Mississippi as "The State" newspaper which has circulation through most of the State, so there will be no doubt regarding public notice this newspaper is also used for the publication of the notice. The average cost to publish a public notice is less than 100 dollars. In addition, MDEQ provides a copy of the public notice and a copy of the draft permit on their website, but does not consider this to be an official method of notifying the public. MDEQ does not provide notices in any language other than English. MDEQ also places copies of the documents relative to the permit action in the nearest public library to the source during the public notice period. A copy of the public notice is sent also to the post office located nearest the source and to the County Courthouse. In the event that MDEQ foresees that the source's permit

action may be controversial, meetings may be held with concerned citizens. However, MDEQ has generally received very few responses from the public regarding title V permit actions. In addition, MDEQ publishes a monthly listing of all permit applications received, including title V applications, in all regional published newspapers in the State. This is done in an effort to allow the public the opportunity to have input on a permit prior to it being drafted. This listing is available through the MDEQ website. MDEQ has also created a public participation committee whose singular charge is to continually evaluate current public participation methods and explore alternative avenues for improving the process.

MDEQ maintains a mailing list to notify any persons interested in title V permits. Anyone interested in being on this mailing list can submit a request, by phone, email, or mail to MDEQ, to be included. There is no fee charged for inclusion. New names are listed within the week of the request and periodically the list is purged to remove names where there are indications that they may no longer be receiving the notice. Persons on the mailing list will receive a copy of the public notice, which includes the contact information of the permit manager assigned to the project. Upon request, copies of the draft permit and/or SOB are sent at no charge. Also, any requested additional information relative to the permit action is sent at no charge, as long as the additional information requested is less than 50 pages. However, if the information requested results in more than 50 pages, then the person is charged 25 cents a sheet for the entirety of the additional information.

When MDEQ receives a request from the public to view permit related documents (such as deviation reports, draft permits, monitoring reports, etc.,) they require the outside party to file a written request to MDEQ's public records administrator stating the sources files they are interested in seeing and a brief description of what information they are specifically interested in reviewing. The public records administrator then assists the interested party by pulling the files and having them readily available at the appointed time. Most of the documents pertinent to the permit action are available in the nearest public library to the title V source. These requests to see the files are generally handled in a timely manner. Internal review requests from the public have decreased since the MDEQ has begun an internet listing of these documents. MDEQ maintains information pertinent to a permit action on their website (www.deq.state.ms.us). Currently the website contains copies of the public notice and the draft title V permit. Once the permit is issued, a copy of the final permit is also available on the website.

MDEQ has not received many public comments relative to title V permit actions, but has noticed an increase in public involvement. Rather than comments on a specific type of source, the comments are primarily on high profile sources located in the gulf coast area of the State. MDEQ has not yet seen any specific environmental group comment on a title V permit, but this is likely to change once MDEQ issues its final two initial issuance title V permits. MDEQ anticipates a response based on the environmental group's reaction to previously issued NSR permits. In the event that a permit receives comments that result in a relaxation to the draft permit, then the revised permit would be re-noticed. In order to ensure quality permits, MDEQ works with the permittees prior to public noticing the permit. As SOP, upon completion of a draft permit, MDEQ sends the permittee a copy of the draft for their review. MDEQ does not proceed to public notice until the permittee and MDEQ have reached an agreement on the draft

permit. Generally, the permittee sends a letter to MDEQ agreeing to the permit as it currently reads. On rare occasions, the permittee has made comments during the public notice period, which resulted in delaying the permit processing time. However, because the permittee has the opportunity to review the permit prior to public notice, this is not a common occurrence.

MDEQ has a public information staff that assist permit staff on projects of public interest as well as media interest. MDEQ also has a person designated to provide assistance to staff on guidance with environmental justice issues that may arise.

MDEQ notifies affected states of draft permits by sending a letter or an email to every state adjacent to Mississippi. MDEQ provides the same information sent to the affected states to the Choctaw Indian Reservation. To date, the MDEQ has not received comments from any affected states or Tribes nor have they provided any comments to another state as an affected state.

E. Permit Issuance/ Revision/ Renewal

MDEQ is at 99 percent completion of their initial title V permits, with only two initial applications remaining to be issued. MDEQ is working with EPA Region 4 towards a final resolution on these permits. The delays in the issuance of these two permits are a result of various issues, but primarily retrospective NSR actions, newly promulgated applicable requirements, enforcement concerns and actions, and the complexity of the sources being permitted. At the time of the program review MDEQ had processed 384 permit revisions and/or modifications; of which:

1. 85 out of 384 (22%) were significant;
2. 24 out of 384 (6%) were minor;
3. 33 out of 384 (9%) were administrative;
4. 242 out of 384 (63%) were 502(b)(10) changes

The Mississippi title V regulations do not address off-permit changes. MDEQ averaged 266 days (27 days was the minimum and 832 days the maximum) to process significant permit revisions, 164 days (7 days was the minimum and 561 days the maximum) to process minor revisions and 160 days (5 days was the minimum and 531 days the maximum) to process administrative revisions.

MDEQ has, on occasion, exceeded the Part 70 time frames for permit issuance (18 months for significant revisions, 90 days for minor permit revisions and 60 days for administrative revisions). The cause of these delays ranged from MDEQ delaying action on a minor modification so that the permit action could be included in a permit re-issuance to other unexpected issues, such as enforcement matters. In order to streamline the issuance of revisions, MDEQ has provided more training to permit managers, which should result in modifications being handled in an expeditious fashion, and the majority of 502(b)(10) changes have been assigned to the title V functional expert.

MDEQ is currently in the process of issuing title V permit renewals. Overall, MDEQ has found the renewal process to be no easier than the issuance of initial title V permits. MDEQ is still using the original title V application format but is in the process of revising the application form in order to reduce the redundancy and to address title V/periodic monitoring and Compliance Assurance Monitoring (CAM). The forthcoming revised application will also be a streamlining effort, which consolidates NSR permit applications and the title V permit applications into a single application. Because new applicable standards have to be incorporated into the renewable title V permits (such as CAM and MACT standards) and there have been changes in title V/periodic monitoring approaches, these areas of a source permit are being reevaluated to ensure they meet current EPA guidance. The majority of the renewal applications submitted have been timely and complete. At the time of the program review, MDEQ had received a total of 191 renewal applications, with approximately 87 percent of them found to be timely and complete. The primary areas found lacking in the renewal applications are the lack of the CAM plan including a negative declaration if necessary and a lack of clarity on how the emission rates are set by the source. Of these submittals, 107 have been renewed.

F. Compliance

Mississippi requires all deviations from title V permit requirements to be reported within five days of the time the deviation began in accordance with condition 5.A.5 of the title V permit. MDEQ title V permits require all reports to be certified by a responsible official and must be included at the time of submittal. MDEQ requires that written reports must be submitted for deviations. Phone calls to report deviations are not required and do not meet the requirements of this provision. Each deviation report must contain the probable cause of the deviation and corrective actions taken. Although it is not required, the magnitude and duration of the deviation are generally included in the report. Following the receipt of a deviation report, MDEQ reviews the report and evaluates a course of action on a case-by-case basis. Upon receipt of a semi-annual monitoring report or an annual compliance certification, MDEQ reviews the report and takes enforcement action for the identified violations. MDEQ reviews 100 percent of all deviation reports, semi-annual monitoring reports, and annual compliance certifications. MDEQ has not developed a separate compliance certification form.

G. Resources and Internal Management Support

In 1998, MDEQ's Office of Pollution Control was reorganized and as a result two new divisions were formed, the EPD and the ECED. The objective of the reorganization was to formulate a multi-media approach to regulating and permitting facilities, which does not allow any permit managers to be assigned solely to title V. MDEQ's EPD has 22.69 title V FTE's. This number includes managerial and administrative staff. To track the time MDEQ staff allocates to title V activities, MDEQ utilizes an electronic time entry database. Each employee is required to frequently, preferably daily, maintain their electronic timesheet, which reflects how their time was spent and what program they worked in on an hourly basis. These timesheets are printed on a monthly basis and approved by the designated managers. The ratio of permits to permit writers is five permits per writer on an annual basis.

MDEQ has not experienced a great deal of staff turnover in recent years in large part due to the ability to offer competitive salaries, the development of career ladders for the staff, and by providing continuing educational opportunities for the staff. EPD has implemented the "Development Program for EPD Permit Writers, Special Projects Staff, and Supervisors." The Development Program consists of two five percent educational benchmark raises that may be awarded to EPD technical staff that have completed training to improve their ability to write effective permits. The training includes formal classroom instruction, book reviews, and special projects.

MDEQ assesses title V fees for each title V major source based on actual emissions for the previous calendar year or allowable (potential) emissions applicable on September 1, the date the fee is due. Annual Emission Reporting Forms (AERF'S) and associated instructions are sent to each source annually, allowing the source the opportunity to report and opt for the fee to be based on actual emissions. If an acceptable AERF is not submitted, the default basis for the fee is allowable emissions. The AERF is due by July 1st of each year. The current title V fee for Mississippi is 31 dollars per ton. MDEQ is able to track their title V fee revenue through the Fee Section of their Office of Administration Services. As each source's payment is received, the source is credited, and the funds are posted into the title V account. MDEQ is able to track their title V expenditures through divisional codes specific to the title V program. These divisional codes are specifically assigned to each division that performs some type of activity related to the title V program. Work performed by these various divisions is charged to an assigned code. These expenditures are also tracked by the categories of salary, fringe, travel, equipment, supplies, and indirect.

In late 2001, MDEQ began to proactively search for environmental justice (EJ) issues. Since then, Mississippi has developed a written EJ policy and employs an EJ coordinator to assist the permit writers in all areas involving EJ. In addition, MDEQ has provided EJ training and access to demographic information to their permit writers. EPD staff utilizes information gathered from Geographic Information Systems (GIS) and Spatial Warehouse Information Management System (SWIMS) to determine demographic information. SWIMS is an intranet application using web-mapping technology that provides geographic information and simple analysis tools to the staff of MDEQ. SWIMS provides analysis using not only GIS layers, but also non-GIS related databases in production at MDEQ. When reviewing the title V applications, EPD permit manager conduct screening for EJ issues by completing a project awareness checklist prior to all permit actions to ensure that no EJ issues exist.

MDEQ believes that they have gained benefits as a result of the title V program and has had this sentiment echoed by the industry in Mississippi. The primary benefit, as noted by MDEQ is the fact that the title V permits allow both the agency and the regulated source a single document that defines most if not all of the applicable requirements and the associated monitoring, reporting, and recordkeeping. MDEQ believes this provides all parties a full understanding of the expectations and allows for a better rapport with the regulated community.

I. Program Highlights

Some of the highlights found during the discussion were the 99 percent issuance rate of the initial title V applications and the excellent SOB created by MDEQ to include all of the necessary information. Also, the presentation given to EPA on the enSite database was very impressive.

Additional areas of excellence were noted in MDEQ's public participation process and commitment to Environmental Justice. Mississippi is one of the regional leaders in working to uncover potential Environmental Justice issues. The MDEQ process of requiring each permit writer to complete the project awareness checklist shows an aggressive approach to involving the public in the process and ensuring that their concerns are heard. Another area of note is the training plan that MDEQ has implemented for its staff. The plan, which requires up to 20 percent of the employee's time to be spent on training and includes training as a part of each employee's job performance, shows an excellent commitment to employee development.

2. Permit Reviews

A. Permit file Review (10 files reviewed)

EPA reviewed a total of 10 MDEQ permits of a cross section of source types. Overall, MDEQ's files were deficient in including all of the administrative components that should be contained within their official files.

- Prior to the conclusion of the program evaluation, EPA Region 4 presented to MDEQ a list of the documents missing from the files. MDEQ was able to retrieve all of the necessary documents to complete the files prior to EPA's departure.

B. Permit Terms and Conditions

Permits are well organized and easy to read. Summary tables provide a good snapshot of all applicable requirements contained in the permit.

C. Statement of Basis

Great improvements have been made in the past year regarding the structure and content of the SOB. More recent SOBs include critical information such as applicability determinations (CAM, NSR, MACT), non-applicability of requirements that could potentially apply, and details of modifications. Some improvements can still be made regarding the documentation of monitoring decisions made regarding SIP requirements and the inclusion of requirements originating from construction permits.

D. Opacity Monitoring

Opacity requirements are contained in Section 3.A (Facility-Wide Emission Limitations & Standards) in all permits. However, this applicable requirement is overlooked often when it comes to including periodic monitoring in the permit and the statement of basis should provide an explanation as to why no monitoring is required in the permit.

E. CAM Applicability - Exemptions

EPA Region 4 has reviewed at least three permits this year that have contained erroneous applicability determinations regarding CAM when an emission point is subject to a CAM exempted limit. If a unit is subject to either exempt and nonexempt emission limitations or standards, Part 64 still applies to the unit and must be addressed.

Mississippi New Source Review Program Review

On October 20, 2004, the Region 4 office of the U.S. EPA conducted a review of the MDEQ NSR permit program. (In addition an exit briefing, including NSR items, was conducted on October 21, 2004.) The NSR program review consisted of administering a questionnaire developed for EPA's national NSR program review project. Region 4 has reviewed virtually all of MDEQ's major NSR permits in recent years, so no major NSR permits were evaluated as part of the on-site review.

The primary EPA staff person conducting the review was Katy Forney from Region 4's Air Permits Section. Other EPA representatives present during the review were Gregg Worley, and Randy Terry. The State's primary participants were from the Environmental Permits Division and consisted of Jerry Cain, Dan McLeod, Tim Parrish, and Maya Rao. Phil Bass, Chief of the Office of Pollution Control, was present along with the above-mentioned staff during the exit briefing at the end of the on-site review.

MDEQ is a SIP NSR State rather than a delegated NSR State. MDEQ's NSR program incorporates 40 CFR 52.21 by reference. Consequently, MDEQ uses the same NSR definitions, as would EPA. MDEQ's current minor NSR permitting regulation is not approvable, however MDEQ is in the process of revising their regulations concerning the minor NSR permitting program to address this deficiency. Currently, MDEQ has authority to issue both major and minor NSR permits. Because there are no nonattainment areas in Mississippi, the applicable major NSR permitting regulations are the regulations for prevention of significant deterioration (PSD).

MDEQ's organizational structure for air permitting comprises the central office in Jackson. All major and minor NSR permits are processed in the Jackson office.

The headings in this section of the report duplicate the headings in the NSR program review questionnaire administered during the visit.

As an appreciated aid to EPA, MDEQ provided a copy of the program review questionnaire annotated with MDEQ's answers. For many questionnaire items, the answers provided by MDEQ are more detailed than indicated in the summary discussion below. The answered questionnaire from MDEQ will be on file at EPA Region 4 for reference.

1. Common Program Requirements (PSD and Nonattainment NSR)

A. Netting

MDEQ follows appropriate netting procedures. When an application for a modification of an existing major source is received, MDEQ reviews the source permitting file to determine if past emissions reductions have already been relied on for netting purposes. One item in the questionnaire is whether the reviewing agency has a formal process to track projects that use emissions reductions to net out of major NSR. MDEQ indicated that they do not have a formal tracking process. Although this is not necessarily a problem, MDEQ could consider tracking the sources that have netted out of NSR to avoid having to completely review the source file each time a new application is received.

B. Routine Maintenance, Repair and Replacement (RMRR)

MDEQ is familiar with the RMRR evaluation approach. MDEQ generally follows EPA's four-factor RMRR assessment approach. MDEQ makes very few formal RMRR determinations and those that have been made are kept in the source file along with all other information. MDEQ does exclude projects from the RMRR exception, when it is clear that the purpose is to increase capacity. When evaluating the "cost" factor, MDEQ does not have a bright-line test, but rather considers the specific situation (i.e., case by case).

C. Synthetic Minor Limits

MDEQ reserves the term "synthetic minor" sources to describe sources not subject to title V. MDEQ refers to construction permits that avoid PSD permitting as "PSD Moderate" permits. During the process of permitting a minor source, MDEQ reviews the application, writes a draft permit (which includes practically enforceable permit conditions, enforceable reporting and recordkeeping requirements), and publishes a notice to solicit comments from the public. MDEQ is currently in the process of revising their existing minor source permitting regulations and has been working with EPA on the revisions.

D. Pollution Control Projects (PCP) Exclusion

For electric utility steam generating unit (EUSGU) PCP projects, MDEQ's rules incorporate federal PCP exclusion rules by reference. For non-EUSGU PCP projects, MDEQ follows EPA's 1994 guidance on PCP exclusions. To date, MDEQ has done one formal PCP exclusion for a project involving the burning of waste tires. When granting a PCP exclusion, MDEQ considers the overall emissions of the project and ensures that the National Ambient Air Quality Standard (NAAQS) and PSD increments are being met. Projects that have increases in production, decreases in production costs or increase marketability may not qualify as an environmentally beneficial project. According to MDEQ, most PCP exclusion requests in the state of Mississippi come from the wood products industry.

E. Fugitive Emissions

MDEQ uses the federal rule definition of fugitive emissions. Fugitive emissions are considered in NSR applicability assessments for both new sources and modifications of existing sources, but only if the source is in one of the listed source categories. MDEQ understands that fugitive emissions should be included for the purposes of BACT analyses, regardless of the source category. MDEQ would allow reductions in fugitive emissions to be creditable in a netting analysis only if the fugitive emissions are quantifiable (using most recent two years of data) and if the permit contains specific enforceable limits for fugitives.

F. Modeling

MDEQ regulations currently reference the modeling procedures in 1986 version of 40 CFR part 51, Appendix W and the 1987 and 1993 versions of supplement A and B, respectively. Modeling is performed for PSD permits and PCP exclusions. In general for minor sources, MDEQ does not perform (or require of applicants) PSD increment consumption modeling.

MDEQ requires applicants to submit a modeling protocol prior to submitting a PSD permit applications. MDEQ requires that the most recent 5 years of meteorological data be used in the modeling analyses.

Emission source inventories for modeling are provided to the applicant by MDEQ. All sources required to be tracked under the consolidated emissions reporting rule from counties that are significantly impacted are included in the emissions inventory.

PSD increment consuming/expanding sources are not tracked in a formal database, but rather information is kept in each source file. This information must be looked up in the files each time a review is done.

If modeling demonstrates a violation of a NAAQS or a PSD increment, before a permit is issued, the applicant must show that the project does not contribute to a violation of a NAAQS and that the entire facility is not contributing to a PSD increment violation.

MDEQ uses the federal modeling guidance for the determination of "ambient air" and has created the following definition: "The encompassing atmosphere existing in the matter of space and to which life of this earth is adapted. MDEQ definition of ambient air is consistent with the federal definition of ambient air. For the purposes of these regulations, that portion of the atmosphere outside of buildings, stacks, and ducts."

G. Stationary Source Determinations

MDEQ does not have a bright-line distance when evaluating whether emission units are contiguous or adjacent, but determine common ownership/control on a case-by-case basis. MDEQ would consider the support relationship between two facilities as well as the SIC code of the facilities when performing a single source determination.

H. Debottlenecking and Increased Utilization

MDEQ takes into account debottlenecking and increased utilization when assessing emissions increases for major NSR applicability purposes. MDEQ follows EPA's policy of calculating actual-to-potential emissions increases for debottlenecked units and project-generated incremental emissions increases for increased utilization units.

I. Relaxation of Limits Taken to Avoid Major NSR

MDEQ indicated that it performs very few relaxation assessments and does not formally track these types of evaluations. MDEQ does understand the basic relaxation concepts and indicates they also perform a "sham" permitting evaluation whenever a relaxation occurs, to ensure that PSD is not being improperly avoided. Furthermore, MDEQ includes specific permit limits and conditions to make future relaxations more identifiable.

- Questions often arise about the so-called "one time doubling" or "second bite at the apple" policy. This is the policy that under some circumstances an existing minor source can have an increase in emissions up to the PSD major source threshold (100 tpy or 250 tpy depending on source category) without triggering PSD review. EPA explained that this applies only when, for example, a new process line is being added to an existing source. It does not apply to modifications of existing operations/equipment at the source. EPA recommends that MDEQ check to make sure that the policy is being used correctly.

J. Circumvention/Aggregation Issues

MDEQ checks to assess whether modifications taking place close in time might be part of the same project. MDEQ includes in the evaluation, the frequency of the modifications, the reasons for the modifications, and whether the applicant had prior knowledge before each modification.

2. Prevention of Significant Deterioration (PSD)

A. Program Benefits Quantification

MDEQ believes that the PSD program has produced air quality benefits; however, MDEQ has not used the PSD authority to implement other MDEQ priorities (e.g., monitoring, toxics, etc.).

B. Best Available Control Technology (BACT)

MDEQ requires use of the top-down procedure. Information sources for identification of possible control options include EPA references and MDEQ's own extensive PSD permitting experience.

To establish compliance averaging times for BACT emissions limits, MDEQ generally uses the reference test method-averaging period for a particular pollutant; however, if a CEMS is used as the monitoring device, averaging periods can vary.

MDEQ generally expects applicants to follow EPA procedures for BACT cost evaluations. Both total and incremental cost effectiveness are considered by MDEQ in a BACT cost evaluation. To date, MDEQ has not performed its own independent economic evaluation.

MDEQ is aware that each BACT determination should be entered in EPA's Reasonably Available Control Technology (RACT)/BACT/Lowest Achievable Emission Rate (LAER) Clearinghouse (RBLC). MDEQ provides a copy of determination to EPA along with our copy of the final PSD permit.

- EPA would like to acknowledge the effort that goes into keeping the RBLC up-to-date and encourage MDEQ to keep up the good work.

C. Class I Area Protection for PSD Sources

MDEQ sends a copy of the PSD permit application the appropriate federal land manager (FLM) for projects located within 200 km of a Class I area. Applicants of projects located more than 100 km from the nearest Class I area are required to contact the FLM and a pre-application meeting with MDEQ is a possibility. MDEQ also posts applications and public notices on their website and MDEQ also mails public notices to the FLMs.

D. Additional Impacts - Soils, Vegetation, Visibility, Growth

MDEQ requires the applicant to address additional impacts in the PSD application. Regarding vegetation impacts, MDEQ does not automatically assume that compliance with the primary and secondary NAAQS is generally adequate for vegetation protection. MDEQ does include EJ issues in their analysis. In the area of EJ, MDEQ should be applauded for their active participation and progressive attitude regarding EJ issues.

E. Pre-construction Monitoring

MDEQ allows use of data from state-operated ambient air quality monitoring stations to satisfy pre-construction monitoring requirements (if applicable). Post-construction monitoring has been required for two facilities in the past; one to ensure compliance with the NAAQS and the other was in response to public comments.

F. Increment Tracking Procedures

Baseline dates are county-specific. Minor source baseline dates are published on MDEQ's website for access by all interested parties. MDEQ maintains information regarding increment-consuming sources in the source files and does a file review each time information is needed. MDEQ allows the source to use actual emissions data, but allowable emissions are used for the

surrounding sources in the emission source inventory. Regarding the transparency of emission inventory information, MDEQ maintains some information on their website; however, to see which sources were not included in the inventory and why, a file review would be required. MDEQ does not provide increment-tracking training to the NSR permitting staff, other than on-the-job training.

G. Endangered Species Act (ESA)

MDEQ has a SIP-approved NSR permitting program, so ESA requirements are not applicable requirements for air permits issued by MDEQ. However, since MDEQ engineers write permits for all environmental areas and ESA requirements are part of water permitting in Mississippi, MDEQ does include ESA requirements as part of their Project Awareness Checklist. EPA believes that MDEQ is doing an outstanding job of making their permitting staff aware of the importance of ESA requirements in all environmental media.

3. Nonattainment NSR

The State of Mississippi does not currently have any nonattainment areas. Consequently, EPA and MDEQ did not cover this section of the questionnaire.

4. Minor NSR Programs

A. NAAQS/Increment Protection

MDEQ has occasionally required modeling and air quality monitors for minor sources, but typically it is not required or performed for minor source permits. The triggering of a minor source baseline date does not automatically cause MDEQ to require increment modeling. MDEQ does post on their website a list of areas where minor source baseline dates have been triggered; however, if the public wants a list of sources that consume or expand PSD increment, a request must be made to MDEQ.

B. Control Requirements

MDEQ does not have a minor source BACT requirement, but monitoring and recordkeeping is required for minor sources. MDEQ requires minor sources to report compliance with any federally applicable permit limits (MACT, New Source Performance Standard, etc.)

C. Tracking Synthetic Minor NSR Permits

MDEQ maintains information on minor source permits in their enSite database. Regarding synthetic minor permits, MDEQ does discuss in the public notice and permit rationale which requirements are being avoided to keep the source minor. MDEQ states that prompt deviation notification requirements are not included in minor source permits.

- From our interview with MDEQ, it is unclear exactly what language is included in the minor source permits. It is our understanding that MDEQ will check on the language in their air permit templates (both construction and operating) and intends to make prompt deviation language consistent throughout their air permits.

5. Public Participation

A. Public Notification

MDEQ provides public notice for major NSR permits, synthetic minor permits, and netting permits, but not generally for minor source permits. Public notices are published in the daily newspaper nearest to the source as well as in the State Capital newspaper, which is circulated throughout the state of Mississippi. Notification is also made public through a mailing list that includes anyone who has asked to be on the list and a copy of the public notice is provided to the Post Office nearest the source. Additionally, MDEQ posts information on its publicly available website including public notices, draft permits, permit rationales, and final permits. MDEQ also provides a copy of the public notice, permit rationale, and draft permit to the nearest library to the source. Finally, MDEQ lists all applications received in a monthly public notice that is published in three regional newspapers circulating throughout the State. Notice to all adjacent States (not just affected States) is made through the mailing list and the website.

MDEQ has occasionally been asked to extend the initial public comment period and the requests have been granted.

All public comments received are reviewed. MDEQ estimates that less than 10 percent of draft permits have been changed based on public comments (other than EPA comments). If MDEQ intends to issue a final permit that is less stringent than the original draft permit, a second draft permit will be issued with additional opportunity for public comment.

A public hearing will be held on a draft permit if requested by anyone or if MDEQ believes the project may be controversial. Notification of a public hearing is published in a local newspaper at least 30 days in advance of the hearing and a copy of the public notice is mailed to the party requesting the hearing.

B. Environmental Justice (EJ)

EJ considerations for Mississippi projects are discussed in the title V program review section elsewhere in this report.

6. Program Staffing and Training Issues

As of the time of the review, EPD had 6.5 FTE dedicated to working in the NSR program. This number does not include .4 FTE allocated to clerical staff working in NSR or 1 FTE allocated to management of NSR personnel. MDEQ has a formal and comprehensive in-house training program which requires each engineer to spend approximately 20% of their time training per year. MDEQ has indicated a desire to work with EPA on developing an NSR training class to be presented to MDEQ staff in the spring of 2005.

7. General NSR Program Issues

In general, MDEQ attends EPA meetings and conference calls. Staff and management are kept informed about all relevant regulation changes. MDEQ uses EPA's various websites to obtain information. Regarding the use of emission factors, MDEQ will only use AP-42 emission factors if manufacture's data or site-specific stack test data is unavailable. MDEQ has occasionally used data from similar sources outside of Mississippi.

During the preceding year, MDEQ issued or modified seven PSD construction permits. During the same period, MDEQ issued about 82 non-major air construction permits and issued or modified 85 operating permits.

MDEQ estimates that the average time to issue a PSD permit (from the time an application is deemed complete) is from about five to seven months.

Condensable particulate matter emissions are included in PSD applicability assessments and for other regulatory purposes.

8. Effective Construction Permits

Based on EPA Region 4's reviews of MDEQ's PSD permits, MDEQ creates effective construction permits with appropriate permit conditions.

In light of the U.S. Supreme Court decision in *Alaska Department of Environmental Conservation v. EPA et al.*, EPA explained the importance of complete information in the public record to explain the basis for NSR permits. EPA commends MDEQ for the information typically included in permit rationales and preliminary determinations for PSD permits as well as for their outreach efforts to the public.

9. Suggested Improvements

Given MDEQ's current database capabilities, EPA suggests that MDEQ consider tracking the PSD increment information for all the PSD increment consuming/expanding sources (major and minor) in their extensive en-Site database.

EPA suggests that MDEQ include PSD increment information (for both major and minor source) in their existing database for better and more accurate tracking of expansions and contractions of the increment. Additionally, MDEQ should consider performing periodic evaluations of the PSD increment, not just evaluations (file reviews) when a new PSD application is received. These periodic evaluations should include increment consuming mobile sources as well as increment consuming major and minor stationary sources. Finally, this topic could possibly be included in the NSR training that MDEQ wishes to develop in conjunction with EPA.

In addition to including PSD increment information in their database for tracking purposes, MDEQ should consider posting information regarding the individual sources that consume/expand PSD increment on their website for public access.

10. Program Highlights

MDEQ does a good job with their PSD permits. They are well written and contain detailed preliminary determinations. MDEQ has always been responsive to any comments received from EPA.

Items of special notice to EPA include the use of a permit awareness checklist by MDEQ to ensure that their permit writers are aware of potential issues as soon as possible. This checklist also includes a section related to Endangered Species and Environmental Justice, which demonstrates outstanding initiative of MDEQ.

EPA Region 4 is very impressed with your enSite database, as well as enSearch and enSearch online.

MDEQ does an excellent job of not just passively informing the public, but actively seeking their input prior into the process of drafting permits. This is evident through MDEQ's extensive methods of informing the public about a permitting project, which include notifying the public of applications and providing information in an easily accessible manner (at local libraries and on their website.) EPA believes it is MDEQ's positive attitude towards public involvement that motivates them to go above and beyond the minimum public notification requirements of the NSR program.

Conclusion

At the conclusion of the onsite portion of the Title V and NSR program reviews, Region 4 personnel met with key MDEQ officials to conduct an exit interview. During this exit interview Region 4 shared the findings of the review and laid out a timeframe for when the final report would be completed. In addition, Region 4 queried MDEQ about ways to possibly improve the program reviews. MDEQ responded with the opinion that the evaluation was thorough and had no additional suggestions for improving the evaluations. Personnel in attendance from EPA Region 4 were Randy Terry, Katy Forney, and Gregg Worley. MDEQ officials in attendance included Jerry Cain, Dwight Wiley, Dan McLeod, Don Watts, Marc Wyatt, Maya Rao, and Tim Parrish.

Overall, EPA believes that MDEQ is operating both the title V and NSR programs at a high level of proficiency and looks forward to working with the MDEQ to address the areas needing improvement in the future.